

DECEMBER 2012

ORAL ARGUMENT

CALENDAR

12/06/2012

DECEMBER, 2012

December 14, 2012

**12:15 – 12:45 P.M. – ORAL ARGUMENT,
2011-CA-001540 & 2011-CA-001681,
JESSAMINE COUNTY, ET AL. V. READY MIX
CONCRETE OF SOMERSET, JUDGE KELLER, PRES.
JUDGE LAMBERT AND JUDGE MAZE, ASSOC.**

**12:15 P.M. (FRANKFORT TIME) MOTION PANEL,
JUDGE KELLY THOMPSON, PRESIDING JUDGE,
CHIEF JUDGE ACREE AND JUDGE CAPERTON, ASSOC.**

3:00 P.M. COURT MEETING

**THIS ORAL ARGUMENT, MOTION PANEL AND COURT MEETING WILL
BE HELD AT COURT OF APPEALS, FRANKFORT, KY.**

**PHONE NUMBERS WHERE PANEL MEMBERS CAN BE REACHED WHEN ORAL
ARGUMENTS SCHEDULED:**

FRANKFORT – Contact Mary Zagale– (502) 573-7920

LOUISVILLE – Contact Marti Dodd – (502) 595-3440

ELIZABETHTOWN – Contact Belinda Peace – (270) 766-5039

NEWPORT – Contact Vickie Beagle – (859) 292-6717

LOCATION: CAMPBELL COUNTY CIRCUIT COURT, 330 YORK STREET, THIRD FLOOR, COURTROOM 3B, NEWPORT, KENTUCKY

DATE: Wednesday, December 5, 2012

11:30 AM PJ: ACREE, HON. GLENN E.

KELLER, HON. MICHELLE M.

MAZE, HON. IRV

2012CA000012 DEANS & HOMER, INC. v COMMONWEALTH OF KENTUCKY, PUBLIC PROTECTION CABINET

Civil; Administrative Law: Whether the appellee's finding that appellant performed an unauthorized transaction of insurance business was arbitrary or clearly erroneous.

CIVIL

FRANKLIN COUNTY

HON THOMAS D. WINGATE

Appellant Atty:

Appellant Name:

MELLOAN, KYLE
MITCHELL, GREGORY
RENZELMANN, JASON
SNYDER, SHERYL

DEANS & HOMER, INC.

Appellee Atty:

Appellee Name:

TAYLOR, STEPHEN

COMMONWEALTH OF KENTUCKY, PUBLIC
PROTECTION CABINET

SAUNDERS, RUSSELL

STOR-ALL WINCHESTER LLC

**** NOTE:**

01:30 PM PJ: MAZE, HON. IRV

KELLER, HON. MICHELLE M.

MOORE, HON. JOY A.

2010CA001027 LEXINGTON INVESTMENT COMPANY, INC. v RANDY WILLEROY

Appeal from denial of CR 11 sanctions. Willeroy asserted claims for legal malpractice and breach of fiduciary duty claims against attorney and brokerage company for his mother's estate. Claims against brokers were dismissed for failure to state a claim; claims against attorney went to trial and were partially successful. Brokers argues that CR 11 sanctions were appropriate because Willeroy & his counsel admitted they had no factual basis for claims against them. Willeroy filed a cross-appeal from s.j. dismissing brokers. Motion to dismiss cross-appeal for failure to name necessary party passed to merits panel.

FAYETTE COUNTY

HON PAMELA R GOODWINE

Appellant Atty:

Appellant Name:

MCCLELLAND, DENISE

LEXINGTON INVESTMENT COMPANY, INC.

Appellee Atty:

Appellee Name:

DIEFFENBACH, RICHARD
STIDHAM, G
STIDHAM, LYNN

WILLEROY, RANDY

**** NOTE:40 MINUTE ORAL**

LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,

DATE: Thursday, December 6, 2012

01:45 PM PJ: COMBS, HON. SARA W.

LAMBERT, HON. JAMES H.

NICKELL, HON. C. SHEA

2012CA000439

WOODLAWN SPRINGS HOMEOWNERS ASSOCIATION, INC. v YOUR COMMUNITY BANK, INC.

At issue are restrictive covenants in subdivision restrictions and the proper definition of what constitutes "Developer" under Kentucky law, purportedly an issue of first impression.

CIVIL

NELSON COUNTY

HON JOHN DAVID SEAY

Appellant Atty:

Appellant Name:

EDISON, MARK

WOODLAWN SPRINGS HOMEOWNERS ASSOCIATION, INC.

Appellee Atty:

Appellee Name:

**ASHBURNER, CLIFFORD
VEENEMAN, SARA**

YOUR COMMUNITY BANK, INC.

**** NOTE:ORIGINALLY AT 3:15 PM**

02:30 PM PJ: COMBS, HON. SARA W.

LAMBERT, HON. JAMES H.

NICKELL, HON. C. SHEA

2011CA002257

GARY HURT, IN HIS INDIVIDUAL CAPACITY AS EMPLOYEE v BARBARA PARKER

Personal injury case involving a visitor to school premises. Summary judgment was entered allowing case to proceed by finding that high school principal was not shielded by qualified immunity. Principal, the appellant before us, challenges finding that his duties were ministerial rather than discretionary and seeks protection of immunity.

CIVIL

JEFFERSON COUNTY

HON BRIAN C. EDWARDS

Appellant Atty:

Appellant Name:

LEET, BYRON

**HURT, IN HIS INDIVIDUAL CAPACITY AS
EMPLOYEE, GARY**

Appellee Atty:

Appellee Name:

WILLIS, DAMON

PARKER, BARBARA

**** NOTE:**

LOCATION: HARDIN COUNTY JUSTICE CENTER, 120 EAST DIXIE AVENUE, 2ND FLOOR, COURTROOM 1, ELIZABETHTOWN, KENTUCKY

DATE: Thursday, December 13, 2012

01:00 PM PJ: TAYLOR, HON. JEFF S.

CAPERTON, HON. MICHAEL O.

DIXON, HON. DONNA L.

2011CA002150

NAUTILUS INSURANCE COMPANY v GRAYCO RENTALS, INC.

Whether circuit court erred by determining that appellant had a duty to defend appellee under a general liability insurance policy.

CIVIL

FLOYD COUNTY

HON JOHN DAVID CAUDILL

Appellant Atty:

Appellant Name:

ELLISON, MATTHEW

NAUTILUS INSURANCE COMPANY

MILLER, BARRY

Appellee Atty:

Appellee Name:

VANOVER, JIM

GRAYCO RENTALS, INC.

**** NOTE:PREVIOUSLY AT 2:30 PM**

01:45 PM PJ: TAYLOR, HON. JEFF S.

CAPERTON, HON. MICHAEL O.

DIXON, HON. DONNA L.

2012CA000148

HARLAN COUNTY v JAYNE BROWNING

Whether circuit court properly determined that appellees' claims were not barred by sovereign or governmental immunity.

CIVIL

HARLAN COUNTY

HON RODERICK MESSER

Appellant Atty:

Appellant Name:

SCHMITT, MICHAEL

HARLAN COUNTY

SHAW, JONATHAN

Appellee Atty:

Appellee Name:

FREEMAN, BRADLEY

BROWNING, JAYNE

**** NOTE:**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,
FRANKFORT, KENTUCKY**

DATE: Friday, December 14, 2012

12:15 PM PJ: KELLER, HON. MICHELLE M.

LAMBERT, HON. JAMES H.

MAZE, HON. IRV

2011CA001540

JESSAMINE COUNTY v READY MIX CONCRETE OF SOMERSET, INC.

2011CA001681

The Jessamine County Board of Adjustment appeals from the circuit court's order reversing the Board's denial of a conditional use permit. On appeal, the Board argues that its previous denial of a conditional use permit foreclosed a second similar application. The Board also argues that the zoning regulations did not permit the conditional use required.

CIVIL

JESSAMINE COUNTY

HON C. HUNTER DAUGHERTY

Appellant Atty:

Appellant Name:

SMITH, BRUCE

JESSAMINE COUNTY

Appellee Atty:

Appellee Name:

SIMPSON, T. JR

ALLTECH, INC.

GULLETTE, ROBERT JR

READY MIX CONCRETE OF SOMERSET, INC.

**** NOTE:**
